

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
ECKHART, et al., : Docket #1:20-cv-05593-
 : RA-GWG
 :
 Plaintiffs, :
 :
 - against - :
 :
 FOX NEWS NETWORK, LLC, et al., : New York, New York
 : September 22, 2021
 Defendants. :
 : TELEPHONE CONFERENCE
 ----- :

PROCEEDINGS BEFORE
THE HONORABLE GABRIEL W. GORENSTEIN,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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Proceedings conducted telephonically and recorded by
electronic sound recording;
Transcript produced by transcription service.

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<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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THE CLERK: This is a conference in the matter of Eckhart versus Fox News Network. Counsel, state your names for the record, please, starting with plaintiff.

MR. MICHAEL WILLEMIN: Good morning, Your Honor, this is Michael Willemin and Renan Varghese for plaintiff, Jennifer Eckhart.

MS. KATHLEEN MCKENNA: Good morning, Your Honor, this is Kathleen McKenna and Danielle Moss of Proskauer Rose LLP for the defendant, Fox News Network, LLC.

MS. CATHERINE FOTI: Good morning, Your Honor, this is Catherine Foti and Douglas Chalke from Morvillo, Abramowitz, Grand, Iason, & Anello, P.C., for defendant, Ed Henry.

HONORABLE GABRIEL W. GORENSTEIN (THE COURT): Okay. Welcome, everyone. First, this is being recorded, no rebroadcast is permitted or any dissemination of the recording. Also, anyone not speaking should keep themselves on mute.

I have here a proposed case management plan and scheduling order, in principle, the dates are fine. I had some questions, the first being the expert discovery schedule which is paragraph 3(e). It says that expert disclosures will be made on May 31st and depositions will take place on June 30th. I guess the part that was

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confusing to me is the theory that everyone is making simultaneous disclosures, which doesn't really make sense. Normally the way I do this is anyone who is making their own disclosure to support their case does it on a certain date, and any, you know, rebuttal to that, usually from the defendant, comes on another date, and then there's another date for the depositions to be taken. So was there some other vision or did parties not think about it the way I'm thinking about it?

MR. WILLEMIN: Your Honor, this is Michael Willemmin, I think Your Honor's point is well taken. I believe, unless I'm corrected somehow by defense counsel, that that is an oversight. I think we should, from my perspective, use the end of June date as the rebuttal report date and the end of July as a date for depositions, that would be my proposal.

MS. MCKENNA: This is Ms. McKenna, Your Honor. Yeah, Judge, I agree with Mr. Willemmin and thank you for catching the parties' oversight there.

THE COURT: All right, so I'll change those dates --

MS. FOTI: Sorry, Your Honor, I wanted to put on the record it's fine with Mr. Henry, as well, I agree, it was an oversight, thank you.

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THE COURT: So we'll add that date and move summary, I'm not putting in a date for summary judgment, I don't like putting in time periods, so the summary judgment date would be mid-September.

The other, I made some minor changes to paragraph 8 that you can read when I issue it relating to my requirements. On 7 I'm telling the parties to file a letter on ECF as soon as both sides are prepared to participate in a settlement conference.

Other than that, I have no agenda for today, but I'm happy to hear from anyone who may have an agenda. I would otherwise just issue the order as I described it. Anything from the plaintiff's side that you think we should do today?

MR. WILLEMIN: No, Your Honor.

THE COURT: Ms. McKenna, anything?

MS. MCKENNA: Only one mechanical thing, Your Honor. The parties have agreed that defendants' answer to the third amended complaint will be due Monday, October 11th, and I think that probably needs to be so ordered by you, Your Honor. So if you if you want us to submit a stipulation I think we can, otherwise we're happy to take it on the record, as you'd prefer.

THE COURT: I'm happy to agree to it on the

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record if the parties have agreed to it, and if you want to do it otherwise you can follow paragraph 20 of my individual practices. But I'm satisfied with it being on the record.

Anything else from you, Ms. McKenna?

MS. MCKENNA: No, Your Honor, thank you.

THE COURT: Ms. Foti, anything else we need to do today?

MS. FOTI: No, Your Honor, we agree, just in terms of the extension for the answer, it was as to both defendants. So thank you, Your Honor.

THE COURT: Okay. All right, thank you, everyone, good-bye.

(Whereupon, the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of Eckhart et al v. Fox News Network, LLC et al, Docket #20-cv-05593-RA-GWG, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature

Carole Ludwig

Carole Ludwig

Date: October 19, 2021